



Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

cc: George Purefoy, City Manager
Ron Patterson, Assistant City Manager
Donnie Mayfield, City of Frisco
Paul Knippel, P.E., Director of Engineering Services

From: John Eaglen, Strategic Services Manager

Date: August 18, 2009

Subject: Consider and act upon adoption of a Resolution authorizing the City Manager to execute Change Order Number 5 to the Construction Manager at Risk Agreement by and between the City of Frisco and Balfour-Beatty Construction, LLC for the Frisco Stars Center Arena expansion and construction of an additional parking garage facility

Action Requested: City Council consideration and approval of a Resolution authorizing the City Manager to execute Change Order Number 5 to the Construction Manager at Risk Agreement ("CM/AR") by and between the City of Frisco and Balfour-Beatty Construction, LLC ("Balfour-Beatty") of Dallas, Texas, reducing the Guaranteed Maximum Price ("GMP") by (-\$3,299,909.19), for the Frisco Stars Center Arena (now Dr. Pepper Arena) expansion and construction of an additional parking garage facility.

Background Information: City Council approved Resolution No. 02-02-34R, authorizing the City Manager to execute a CM/AR Agreement with Balfour-Beatty to construct the Project, at their January 29, 2008 meeting. At their July 15, 2008 meeting, the City Council approved Resolution No. 08-07-168R, authorizing the City Manager to execute Amendment Number One to the CM/AR Agreement; **the Amendment established the GMP to construct the Project at \$36,681,450.00.**

City Council also approved Resolution No. 08-07-168R at their July 15, 2008 meeting, authorizing the City Manager to execute an amendment to the Supplemental Master Agreement with Hicks Sports Group. This Amendment provided the terms and conditions for Hicks Sports Group to provide up to \$3,000,000.00 in funds to the City (to be included in the GMP for the Project) for

Agenda Memorandum

Resolution – Change Order 5 to the Construction Manager at Risk Agreement

**Frisco Stars Center Arena expansion and construction of an additional parking garage facility
City Council Meeting of August 18, 2009**

Page 2 of 3

either (i) Furniture, Fixtures and Equipment (FF&E) or (ii) Project costs that exceed the balance of funds acquired by the City through the sale of Certificates of Obligation (\$36,000,000.00) to construct the Project.

City Council approved Resolution No. 08-12-276R at their December 16, 2008 meeting, authorizing the City Manager to execute Change Orders (Change Orders 1, 2 and 3, totaling \$86,960.00) to the approved GMP to provide for Balfour-Beatty's construction of the finish-out items relating to the Zoom Sports Lease Agreement (approved by Resolution No. 08-12-275R, December 16, 2008) with the City. **Upon execution of Change Orders 1, 2 and 3, the GMP totaled \$36,768,410.00.**

City Council approved Resolution No. 09-05-88R, authorizing the City Manager to execute Change Order Number 4 to the CM/AR Agreement, at their May 5, 2009 meeting. Change Order Number 4 reduced the GMP by (-\$53,877.00); the reduction was taken from the Owner-controlled Contingency line-item carried in the GMP, and was utilized by the City to cover the costs associated with Amendment Number One to the Professional Services Agreement with Alliance Geotechnical Group to perform materials testing services for the Project. **Upon execution of Change Order Number 4, the GMP totaled \$36,714,533.00.**

The total costs for the Project have tracked to the budget; Change Order Number 5 is a final revision to the GMP that will be utilized to reimburse Hicks Sports Group for the purchase of FF&E for the facility; Change Order Number 5 reduces the GMP by (\$-3,299,909.19) in the following areas:

- Reduction of the GMP in the amount of (-\$3,000,000.00) in funds provided to the City by Hicks Sports Group;
- Reduction of the GMP in the amount of (-\$62,354.00) in funds carried in the Owner-controlled Contingency line-item of the GMP;
- Reduction of the GMP in the amount of (-\$237,555.19), representing the Owner's 75% share of the construction savings on the facility (totaling \$316,740.25). By the terms and conditions of the CM/AR Agreement, Balfour-Beatty retains 25% of the construction savings, totaling \$79,185.06.

Upon approval of the Resolution and execution of the Change Order, the final GMP amount totals 33,414,623.81. The City will then proceed to process the final payment to Balfour-Beatty on the CM/AR Agreement, and will distribute the funds with the Dallas Stars per the amendment to the Supplemental Master Agreement with Hicks Sports Group (approved July 15, 2008).

Alternatives: City Council could consider the following alternatives:

- Consider and approve a Resolution authorizing the City Manager to execute Change Order Number 5 to the CM/AR Agreement;

Agenda Memorandum

Resolution – Change Order 5 to the Construction Manager at Risk Agreement

Frisco Stars Center Arena expansion and construction of an additional parking garage facility

City Council Meeting of August 18, 2009

Page 3 of 3

- Input towards the discussion as desired;
- Deny approval of the Resolution and send back to staff with direction.

Financial Considerations: Approval of the Resolution and execution of Change Order Number 5 reduces the GMP by (-\$3,299,909.19), to a revised final contract amount of \$33,414,623.81.

Legal Review: The Change Order Form (AIA Document G701-2001) is an American Institute of Architects (AIA) Standard Form Document.

Supporting Documents: Supporting documents include the following items:

- Project Location Map;
- Copy of Resolution;
- Copy of Change Order Number 5.

Staff Recommendation: Staff recommends placement of this item on the August 18, 2009 City Council meeting agenda to consider and approve a Resolution authorizing the City Manager to execute Change Order Number 5 to the Construction Manager at Risk Agreement by and between the City of Frisco and Balfour-Beatty Construction, LLC of Dallas, Texas, reducing the Guaranteed Maximum Price by (-\$3,299,209.19), for the Frisco Stars Center Arena expansion and construction of an additional parking garage facility. Staff will be present at the meeting to address the City Council's questions relating to this agenda item.